

**LOUISE MOORE,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** ) **Civil Action No.**  
 ) **2:11-cv-01391-SLB**  
 **WALTER COKE, INC.,** ) **(Chief Judge Sharon L.**  
 ) **Blackburn)**  
 **Defendant.** )  
 )

COME NOW the parties, by and through their respective counsel of record, and respectfully move this Court for an order staying all judicial proceedings in this action. In support of this Joint Motion, the parties state as follows:

Robert D. Mowrey and David M. Meezan for Defendant.

2. At the Rule 26(f) conference, the parties agreed that a stay of judicial proceedings in this action pending the completion of certain activities currently being undertaken by the U.S. Environmental Protection Agency (“EPA”) in connection with the 35th Avenue Superfund Site in North Birmingham, Alabama would best serve judicial economy, avoid piecemeal and duplicative litigation,

prevent hardship to the parties, and help to secure the just and efficient resolution of this proceeding. The parties accordingly agreed to file this Joint Motion to Stay Proceedings.

3. By way of background, in this putative class action, Plaintiff Louise Moore (“Plaintiff”) asserts, on behalf of herself and a proposed class of similarly situated persons, various state law claims for property damage and injunctive relief against Defendant Walter Coke, Inc. (“Defendant”) allegedly resulting from Defendant’s operations in North Birmingham, Alabama since March 2, 1995.

4. The EPA is currently evaluating the environmental condition of and potential environmental impacts in North Birmingham. In connection with such efforts, EPA has designated certain areas of the Fairmont, Collegeville, and Harriman Park communities in North Birmingham as the “35th Avenue Superfund Site” (the “Site”) under the authority granted the agency by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

5. In late September 2013, EPA notified five entities, including Defendant, of the opportunity to conduct certain CERCLA response actions at the Site. In connection with such actions and anticipated future CERCLA response actions, EPA is currently in the process of identifying additional persons and entities that may be “potentially responsible parties” under CERCLA for identifying and addressing alleged environmental conditions at the Site.

6. The Plaintiff anticipates that some or all of the persons and entities EPA identifies as potentially responsible parties will be added as parties to the instant action.

7. The Parties agree that a stay of litigation proceedings until EPA completes its investigation would be beneficial to the Parties and conserve the use of the Court's resources so that, upon its completion, some or all of the parties identified can be added as parties to the instant action as efficiently as possible and prior to the commencement of the class certification stage of proceedings, including related discovery and motions practice, so as to avoid piecemeal and duplicative litigation.

8. This Court has broad discretion to stay proceedings. *See Connor v. Fla. Dep't of Corr.*, 713 F.3d 609, 619 & n.13 (11th Cir. 2013) (noting that the decision to grant a stay "is generally left to the sound discretion of district courts."). The U.S. Supreme Court has held: "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

9. The parties submit that granting a stay to allow EPA to complete its process of identifying potentially responsible parties at the Site will conserve

judicial economy, avoid piecemeal and duplicative litigation, prevent hardship to the parties, and will help secure the just and efficient resolution of this proceeding.

NOW, THEREFORE, the parties, through their respective undersigned counsel, jointly move the Court to enter an order to stay judicial proceedings in this matter until further order of the Court.

A proposed order is submitted with this Joint Motion for the Court's convenience and consideration.

Respectfully submitted this 1st day of November 2013.

/s/ Craig L. Lowell  
Dennis G. Pantazis  
Rocco Calamusa, Jr.  
Craig L. Lowell  
Alexander N. Gerogiannis  
Dennis George Pantazis, Jr.

WIGGINS, CHILDS, QUINN &  
PANTAZIS, LLC  
The Kress Building  
301 19th Street North  
Birmingham, Alabama 35203  
  
*Attorneys for Plaintiff Louise Moore*

/s/ David M. Meezan  
David M. Meezan  
Georgia Bar No. 500882  
Robert D. Mowrey  
Georgia Bar No. 527510  
C. Max Zygmunt  
Georgia Bar No. 567696

KAZMAREK MOWREY CLOUD  
LASETER LLP  
1100 Peachtree Street  
Suite 650  
Atlanta, Georgia 30309  
Phone: (404) 969-0740  
Fax: (404) 335-7220

OF COUNSEL:

Alfred F. Smith, Jr.  
ASB-8536-S70A  
BAINBRIDGE, MIMS, ROGERS &  
SMITH, LLP  
The Luckie Building, Ste. 415  
600 Luckie Drive  
P. O. Box 530886  
Birmingham, Alabama 35253  
Ph. (205) 879-1100  
Fax (205) 879-4300

*Attorneys for Defendant Walter Coke,  
Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of November 2013, I electronically filed the foregoing Joint Motion to Stay Proceedings to be served by the Court's CM/ECF system and email upon all parties.

/s/ David M. Meezan

DAVID M. MEEZAN

Georgia Bar No. 500882

KAZMAREK MOWREY CLOUD LASETER LLP

1100 Peachtree Street

Suite 650

Atlanta, Georgia 30309

Phone: (404) 969-0740

Fax: (404) 335-7220